

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

**OLUFEMI SALU, derivatively on behalf of
BED BATH & BEYOND, INC.,**

Plaintiff,

v.

MARK J. TRITTON, *et al.*,

Defendants,

and

BED BATH & BEYOND, INC.,

Nominal Defendant

No. 2:20-cv-08673-MCA-MAH

**STIPULATION AND ORDER
REGARDING INTERIM STAY OF
PROCEEDINGS PENDING
SECURITIES CLASS ACTIONS**

WHEREAS, on April 14, 2020, a putative securities class action captioned *Vitiello v. Bed Bath & Beyond, Inc.*, No. 2:20-cv-4240-MCA-MAH (D.N.J.), was filed in this Court against Bed Bath & Beyond, Inc. (“BBBY”) and several present and former BBBY officers or directors; and

WHEREAS, on April 30, 2020, a related putative securities class action captioned *Kirkland v. Bed Bath & Beyond, Inc.*, No. 2:20-cv-5339-MCA-MAH (D.N.J.), was filed in this Court, asserting the same claims against the same defendants (the *Vitiello* and *Kirkland* cases to be referred to collectively as the “Securities Class Actions”); and

WHEREAS, pursuant to the Private Securities Litigation Reform Act of 1995, putative class members wishing to be appointed as lead plaintiff in the Securities Class Actions filed motions for appointment as lead plaintiff; and

WHEREAS those motions are fully briefed and pending before the Court in the Securities Class Actions; and

WHEREAS, once the Court appoints lead plaintiff and lead counsel in the Securities Class Actions, lead plaintiff will likely file an amended or consolidated complaint, and the defendants will consider whether to move to dismiss it; and

WHEREAS, on July 10, 2020, a putative BBBY shareholder named Olufemi Salu (“Plaintiff”) filed the above-captioned shareholder derivative action in this Court on behalf of BBBY against various present and former BBBY officers and directors; and

WHEREAS the derivative complaint asserts that, among other things, the individual defendants breached their fiduciary duties to BBBY and violated the federal securities laws by making, or causing or allowing to be made, the alleged misstatements and omissions at issue in the Securities Class Actions; and

WHEREAS the derivative complaint also asserts that BBBY has been injured by, among other things, the “expenditures, legal fees, and payments associated with the Securities Class Actions” [Compl. ¶ 156]; and

WHEREAS, because of the overlap between certain issues in the derivative action and the Securities Class Actions, Plaintiff and BBBY believe that the interests of justice, economy, and judicial efficiency warrant an interim stay of the derivative action pending disposition of any motion to dismiss filed in the Securities Class Actions, subject to the terms and conditions outlined below;

IT IS HEREBY STIPULATED AND AGREED by and between Plaintiff and BBBY that:

1. All proceedings in this action shall be stayed pending disposition of any motion to dismiss filed in the Securities Class Actions. The stay will be terminated once that motion is decided.

2. BBBY will promptly notify Plaintiff's counsel of any related derivative action or threatened derivative action (such as a request to inspect BBBY's books and records in connection with matters related to those at issue in this action, or a demand that BBBY's Board of Directors institute claims related to those asserted in this action).

3. BBBY will promptly notify Plaintiff's counsel if a related derivative action is not stayed for a period similar to or longer than the stay contemplated by this Stipulation.

4. Plaintiff may terminate the stay of this action if a related derivative action is not stayed for a period similar to or longer than the stay contemplated by this Stipulation. Plaintiff may effect such termination by giving 30 days' notice to BBBY's counsel by email.

5. If any mediation or formal settlement discussions occur between or among the parties to the Securities Class Actions, any related derivative action, or any threatened related derivative action, Plaintiff will be included in any such mediation or formal settlement discussions.

6. BBBY will promptly produce to Plaintiff any documents produced to the plaintiff in any related derivative action.

7. Nothing in this Stipulation shall prevent Plaintiff from amending his Complaint, but BBBY and the individual defendants shall not be required to respond to any such amended complaint during the pendency of the stay contemplated by this Stipulation.

8. The parties shall meet and confer and submit a proposed scheduling order to the Court within two weeks from the date that the stay of this action is lifted.

9. If the stay is lifted, BBBY and the individual defendants will not move to stay this action in deference to any other related derivative action.

10. BBBY will use its best efforts to obtain the individual defendants' agreement to waive service of the Complaint in this action pursuant to Fed. R. Civ. P. 4(d).

Dated: July 31, 2020

/s/Laurence M. Rosen

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*Attorneys for Nominal Defendant
Bed Bath & Beyond Inc.*

Counsel for Plaintiff

SO ORDERED this 5th day of August, 2020.



THE HONORABLE MADELINE COX ARLEO
United States District Judge